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SEALED INDICTMENT

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representations and promises, for the purpose of executing such scheme and artifice and attempting so to do, would and did place in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service, and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and would and did take and receive therefrom, such matters and things, and would and did cause to be delivered by mail and such carriers according to the directions thereon, and at the places at which they were directed to be delivered by the person to whom they were addressed, such matters and things, in violation of Title 18, United States Code, Section 1341.

3. It was further a part and object of the conspiracy that VITALY BORKER and MICHAEL VOLLER, the defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the

purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

Overt Acts

4. In furtherance of said conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York:

a. In or about 2016, VITALY BORKER and MICHAEL VOLLER, the defendants, caused eyeglasses to be sent to customers living in Manhattan, New York.

b. In or about February 2016, BORKER wrote a public message on Facebook seeking to hire a person to assist with his "eye wear e-Commerce business."

c. In or about April 2017, a counterfeit pair of sunglasses was sent by the company controlled by BORKER and VOLLER to an address in Manhattan, New York.

(Title 18, United States Code, Section 1349)

COUNT TWO  
(Mail Fraud)

The Grand Jury further charges:

5. From at least in or about July 2011, up to and including the present, in the Southern District of New York and elsewhere, VITALY BORKER and MICHAEL VOLLER, the defendants,

willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting so to do, did place in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service, and did deposit and cause to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and did take and receive therefrom, such matters and things, and did cause to be delivered by mail and such carriers, according to the directions thereon, and at the places at which they were directed to be delivered by the person to whom they were addressed, such matters and things, to wit, BORKER and VOLLER defrauded customers of their retail eyewear website, "OpticsFast.com," by, among other things, misrepresenting the authenticity and condition of merchandise they sold and mailed to such customers.

(Title 18, United States Code, Sections 1341 and 2.)

COUNT THREE  
(Wire Fraud)

The Grand Jury further charges:

6. From at least in or about July 2011, up to and including the present, in the Southern District of New York and elsewhere, VITALY BORKER and MICHAEL VOLLER, the defendants, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, and attempting to do so, did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds, for the purpose of executing such scheme and artifice, to wit, in electronic and telephonic communications, BORKER and VOLLER defrauded customers of their retail eyewear website, "OpticsFast.com," by, among other things, misrepresenting the authenticity and condition of merchandise they offered for sale and sold to customers.

(Title 18, United States Code, Sections 1343 and 2.)

#### FORFEITURE ALLEGATION

7. As a result of committing the offenses alleged in Counts One through Three of this Indictment, the defendants shall forfeit to the United States, pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), any and all property, real or personal, that constitutes or is derived from proceeds traceable to the commission of said offenses, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.


#### SUBSTITUTE ASSET PROVISION

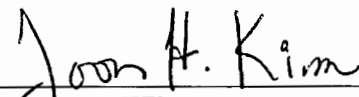
8. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendants up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 981;  
Title 21, United States Code, Section 853;  
and Title 28, United States Code, Section 2461.)

  
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FOREPERSON

  
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JOON H. KIM  
Acting United States Attorney

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

v.

VITALY BORKER, and  
MICHAEL VOLLER

Defendants.

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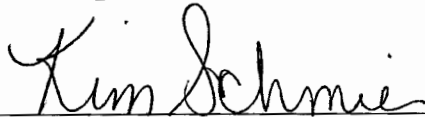
INDICTMENT

17 Cr.

(18 U.S.C. §§ 1349, 1341, 1343, and 2.)

JOON H. KIM

Acting United States Attorney



Foreperson

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6/21/17 FILED INDICTMENT. WARRANT ISSUED

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